

# Statement of the Virginia Railway and Power Company Filed With the Street Committee

November 11, 1912.

To the Committee on Streets:

In the argument of the pending application for a light and power franchise before your committee on Thursday evening, November 7, I read a prepared statement on behalf of the Virginia Railway and Power Company, the first paragraph of which statement read by me was as follows:

"I. In or about the year 1910 an application was pending for a franchise by the interests then controlling the Richmond Railway and Electric Company, which franchise expired on December 31, 1899. At this time, certain gentlemen of Richmond, including Mr. Forbes and Mr. Jenkins, of the Richmond and Henrico Railway Company, applied for a franchise in competition with the existing company. The interests applying for and which subsequently obtained the Richmond Passenger and Power, franchise agreed to pay these gentlemen \$400,000 in money or securities to get out of the field, abandon their application and aid in securing the franchise of the Richmond Passenger and Power Company. This was done, and the consideration was paid. If these facts are questioned, we are prepared to prove them to the committee."

I have seen in the newspapers what purports to be a denial of this statement, signed by the Richmond and Henrico Railway Company by W. S. Forbes, president, and W. F. Jenkins, vice-president, in which they represent me as making a statement which I did not make and then deny their own version of the same.

The application referred to by me was made in the name of the Virginia Conduit Company, in which Mr. Forbes and Mr. Jenkins were interested.

In view of my statement that I was prepared to prove these facts to your committee, I desire to submit the following statements and evidence:

Statement of Mr. John C. Robertson, who organized the syndicate which made the application in the name of the Virginia Conduit Company:

"In the year 1899, before the time that the Richmond Railway and Electric franchise was to expire, I organized a syndicate to apply for a new franchise in Richmond, which included Messrs. W. S. Forbes and W. F. Jenkins.

"A franchise was applied for, and when the same was under consideration by the committee we were approached by the representatives of the old Richmond Railway and Electric interests, who offered to pay us \$200,000 to secure the franchise for them, to be paid \$50,000 when the franchise was reported by the Street Committee; \$50,000 when it was passed by the Common Council; \$50,000 when it was passed by the Board of Aldermen, and the remaining \$50,000 when it was approved by the Mayor.

"They failed to make these payments as agreed, and before the franchise was finally passed we threatened to defeat it if some settlement was not made. Thereupon, Mr. Fisher came to Richmond, and, after a great deal of negotiation, a settlement was made by which, instead of our receiving \$200,000, as had been promised, we accepted \$70,000 in bonds and \$30,000 in preferred and common stock of the new company for securing the franchise for these people.

"Mr. W. S. Forbes was chairman of the committee who settled the matter, and received and distributed the securities. The securities were sold in order to enable us to make a division, and the proceeds were divided among the parties to the syndicate, Messrs. Forbes and Jenkins receiving their proportions.

"If necessary, I am prepared to testify to these facts.  
(Signed) "JOHN C. ROBERTSON."

Statement of T. P. Davie, a member of the syndicate applying under the name of the Virginia Conduit Company:

"I was a member of the syndicate organized by Mr. John C. Robertson and others in 1899 to apply for a franchise in Richmond in the place of the Richmond Railway and Electric franchise, which was about to expire. Messrs. W. S. Forbes and W. F. Jenkins were also members of this syndicate.

"While the application was pending, we were approached by the representatives of the Richmond Railway and Electric interests, and a proposition made to pay us, according to my recollection, \$250,000 in securities if we would get the franchise for that interest, the securities to be underwritten at \$1. A committee was appointed from the syndicate to negotiate the matter with the Richmond Railway and Electric interests, and an agreement was finally made. As a part of this agreement, I think it was agreed that the underground conduit system would be installed on Main Street.

"The Richmond Railway and Electric people failed to make the payments as agreed, and there was a great deal of controversy, and the matter was finally compromised by their delivering to us a large amount of bonds and stock, my recollection being that the amount of bonds was \$50,000. The securities were sold in order to make a division, and the proceeds distributed to the syndicate.

"Mr. W. S. Forbes was chairman of the committee which received and distributed the securities.  
(Signed) "T. P. DAVIE."

Statement of F. Sitterding, formerly president of the Virginia Passenger and Power Company:

"When the application for a franchise in Richmond to succeed the old Richmond Railway and Electric Company was pending, I became interested in the matter, along with a number of other gentlemen.

"When the franchise application was pending, an application had also been made by a syndicate, which I think was organized by Mr. John C. Robertson, of which Messrs. W. S. Forbes and W. F. Jenkins were members. An agreement was reached between the so-called Fisher interests and this syndicate, whereby the syndicate agreed to aid in securing the franchise for the old Richmond Railway and Electric interests. There was afterwards a great deal of controversy about the matter, and I know that a large amount of bonds and stock of the new company was delivered to this syndicate. These bonds were delivered to M. M. Martin, Esq., counsel for the company, to be delivered to Mr. W. S. Forbes, who was chairman of the committee of the syndicate in the settlement of this controversy. Subsequently, I purchased from Mr. Forbes a part of the stock delivered in this transaction, and hold it at the present time.

"My present recollection is that the amount of bonds delivered was \$40,000 and a large amount of stock, but it might have been more.

(Signed) "F. SITTERDING."

The originals of these statements, with the signatures of the parties, are attached hereto.

In 1903, under a joint resolution of the Council and Board of Aldermen, an investigation was made of charges in connection with the granting of these franchises by a joint committee of the two houses. The evidence in this investigation was reported stenographically and is now on file with the clerk of the committee. In this evidence the following testimony appears:

Captain A. Pizzini testified that he was active in efforts to secure this franchise, and his associates were the Virginia Conduit Company; that they were originally promised \$200,000 to aid in securing the franchise by a Mr. Wilson, of New York, who represented the Richmond Railway and Electric interests. At page 462 he testifies as follows:

Q. By the way, you refer to that \$80,000. What was the inducing motive to make you accept \$80,000 in place of \$200,000?

A. Because Mr. Wilson considered that he had been badly treated, and he proposed to take legal proceedings and do the whole business up, and I would rather have had \$80,000 in hand than \$100,000 in the bush. That was my reason, and I suppose that reason governed all the balance of the people.

Q. Did you submit the proposition which he made to take \$80,000 instead of \$200,000 to your associates?

A. No, sir; the \$200,000 contract was just thrown right up three or four months before that. He repudiated it entirely.

Q. That was before the franchise was gotten?

A. No, it was just afterwards.

At page 410 Captain Pizzini was asked in regard to this contract:

Q. What did you actually get out of that?

A. I actually got \$80,000 in bonds.

Q. All that came to you individually?

A. No, sir; it came to me individually at the time of the distribution of the bonds.

Q. Who were intended to share with you?

A. The Virginia Conduit people were my associates, and of course I had to make a return to them of everything I had received, and I did so.

Mr. W. F. Jenkins, after stating that Captain Pizzini was one of his associates, testified, at page 481, as follows:

Q. So upon those representations you agreed with the others that it was wiser for you to unite with Mr. Wilson, of New York, who held the options on the old company's plant?

A. Yes, sir.

Q. Rather than go ahead and apply for the franchise yourself?

A. Yes, sir.

Q. When you made the agreement (when I say you I mean you and your associates in the Virginia Conduit Company) to drop your own fight for the franchise and to assist the Boyd-Newton syndicate and Mr.

Wilson, who represented them, to obtain a franchise, was it not for some consideration? What was the consideration which was to be paid the Virginia Conduit Company for uniting with Mr. Wilson and his crowd instead of opposing them in the application for the franchise?

A. I saw Mr. Robertson to-day—I did not remember—my own mind is not clear on that. I saw Mr. Robertson to-day, a member of our company, and he said we were promised \$200,000 and the conduit on Main Street.

Q. You did not remember this?

A. I did have a faint recollection that there was some money mentioned, but I cannot recall what it was.

Q. You recall there was an agreement for some consideration, but you do not remember the amount?

A. Just a verbal agreement, yes.

Q. You do not recollect the amount?

A. No, sir.

Q. Who are the persons in the Virginia Conduit Company who took the most active part in this matter?

A. I reckon Mr. John C. Robertson.

Q. Mr. Pizzini was also a member of it?

A. Yes, sir; he took the most active part, and Mr. Robertson next.

Again, at page 484, Mr. Jenkins testifies:

Q. How much, if you remember, did the Virginia Conduit Company get finally as a consideration for assisting in securing the franchise?

A. The Virginia Conduit Company got \$26,000 in bonds, \$40,000 in common stock and \$12,500 in preferred, making \$78,500.

Q. Of that what proportion did you get?

A. I got \$4,000 from this.

Mr. M. M. Martin, who was counsel for the interests securing the franchise, after speaking of the opposition of the Jenkins people, testified, at page 665, as follows:

Q. What was done to remove that opposition?

A. An arrangement was made with Captain Pizzini, who represented the Conduit Company, by which they got out of the way and left a free—

Q. What do you mean by arrangement? Were they paid money, bonds or stock?

A. They were paid a certain amount of stock and bonds.

Q. How much were they paid?

A. Now, sir, I expect Captain Pizzini and Mr. Jenkins gave you exactly some \$70,000 or \$80,000.

Comment upon these statements and the sworn testimony of these witnesses is unnecessary. They establish the facts stated by me, and the only point in which there was possible error was that I may have understated rather than overstated the amount paid to Messrs. Forbes, Jenkins and associates.

The paper which I read to the Committee also contained the following statement:

"On October 30, 1912, less than ten days ago, while this hearing has been in progress, the so-called Canadian interests, supposed to own the controlling interest in the Richmond and Henrico Company, approached the interests controlling this company, through reputable brokers in New York, and offered their interest for sale, and the offer was declined."

This statement is denied upon the authority of an alleged telegram from one J. M. McWhinney, of Toronto.

I have never heard of Mr. McWhinney, and he does not appear as an officer or director of the Richmond and Henrico Railway Company, nor is there anything to show that he has the slightest interest therein. No doubt a number of other telegrams could be obtained from other people to the same effect.

The facts of the matter are as follows:

On October 30, 1912, Mr. Frank Jay Gould was asked for an appointment to meet Mr. Murphy, of the firm of G. M. P. Murphy & Co., 43 Exchange Place, New York, in connection with the Richmond and Henrico matters. He made the appointment at 2:30 P. M. on that day, and both Mr. Gould and Mr. R. Lancaster

Williams, a director of this company, were present. The following is a typewritten memorandum made immediately following the interview, signed by Mr. R. Lancaster Williams, forwarded to me and received on October 31:

"New York, October 30, 1912.

"This morning Mr. Greer telephoned to F. J. G.'s office saying that he had had a call from Mr. Duer, who had been referred to him by the Guaranty Trust Company of this city, in connection with Richmond and Henrico matters.

"Mr. Greer informed him that he had nothing to do with the affairs of the Virginia Railway and Power Company, and suggested that he telephone F. J. G. (Frank Jay Gould). Mr. Duer subsequently telephoned, and an appointment was made for 2:30 P. M. at 165 Broadway. At the time Mr. Taylor made the appointment he was informed that Mr. Duer could not come up at this time, as he was leaving shortly for out of town, but that Mr. Murphy would call in his place. Mr. Murphy is of the firm of G. M. P. Murphy & Co., 43 Exchange Place, this city.

"At the interview held in the afternoon, Mr. Murphy said that he had seen the British interests of the Richmond and Henrico, and that a proposition has been made them upon the part of Mr. Forbes which would almost let them out without loss. The British interests, however, wished, before closing with Mr. Forbes, to bring the matter to the attention of our company, with probably the view of ascertaining if we would pay more. F. J. G. (Frank Jay Gould) stated that if any interests had offered them such a price for their interest it had better be accepted, but, as far as the Virginia Railway and Power Company was concerned, it could not afford to pay any such price. Mr. Murphy seemed to have some doubts himself as to Mr. Forbes's reliability and ability to carry out such an arrangement.

"Mr. R. Lancaster Williams was also present, and stated that this was not the first time that we had been approached in the same way.

"The statement marked V 10 of interchange of traffic was shown him. Reference was also made to the lighting franchise which the R. & H. wished to secure, and he was told that this company made no bid for the franchise, as the board of directors had been advised by its counsel that there was a serious doubt as to its validity, if granted.

"Mr. Murphy left shortly after 3 P. M., saying that he would talk the matter over with the interests which had come to him.

"The above is a correct memorandum of the interview held this day between Mr. Frank Jay Gould and Mr. Murphy, at which I was present.

(Signed) "R. LANCASTER WILLIAMS."

On October 30 Mr. Murphy again wrote Mr. Gould further on the subject, to which Mr. Gould replied on November 1, sending Mr. Murphy the statement of the results of operation of the Richmond and Henrico Railway Company for the year ended June 30, 1912, as filed in the office of the State Corporation Commission of Virginia, showing a deficit, including interest charges, of \$112,191.36. On November 8 Mr. Murphy replied, stating that the poor showing made for the property was due to extraordinary expenses in connection with development of the business.

On November 6 I wrote Mr. Gould to know if I could use these facts, and received the following telegram in reply:

"Tours of the 6th received. Do not understand that in the offering of the Richmond and Henrico interests there was any confidence, expressed or implied, which would preclude your stating them to the committee, as you know them on behalf of our company. I refused to consider the proposition as outlined. You are at liberty to make any proper statement to this effect."

If the Committee desires to pursue this matter further, I would be very glad to obtain the original correspondence between Mr. Murphy and Mr. Gould and file it before the Committee.

The correctness of the remaining statements read by me to the Committee going to show that the Richmond and Henrico Railway Company was a sell-out proposition have not been questioned and therefore need not be restated.

It is easy to make promises of public service, but when it is considered that the sworn report of the Richmond and Henrico Railway Company filed with the State Corporation Commission as of June 30, 1912, shows that their taxes and expenses exceeded their total revenue by the sum of \$55,091.36, and that in addition thereto they failed to pay interest on bonds amounting to \$62,000, the performance of these promises becomes a different question.

Very respectfully,

VIRGINIA RAILWAY AND POWER CO.

By HENRY W. ANDERSON,

Vice-President and General Counsel.

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